

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO**

ORDER RESCINDING LOCAL DISTRICT RULES

AND

**CREATING LOCAL RULES FOR THE DISTRICT COURT OF THE FIRST JUDICIAL
DISTRICT, IN AND FOR THE COUNTIES OF BENEWAH, BONNER, BOUNDARY,
KOOTENAI AND SHOSHONE.**

WHEREAS the Local Rules as they now exist for the First Judicial District in the State of Idaho appear to be in need of amendment: and

WHEREAS a review of those Local Rules has been conducted by the District Judges of the First Judicial District, now, therefore,

IT IS HEREBY ORDERED that the Local Rules of the First Judicial District as they are hereinafter set forth be and are hereby adopted as the Local Rules of the First Judicial District and that they will replace and supersede all prior Local Rules for the counties of Benewah, Bonner, Boundary, Kootenai and Shoshone and are supplemental to the Idaho Rules of Civil Procedure; the Idaho Rules of Evidence; the Idaho Criminal Rules; the Idaho Misdemeanor Criminal Rules; the Idaho Infraction Rules; the Idaho Juveniles; the Idaho Court Administrative Rules; and the Idaho Appellate Rules.

RULE 1: Jurisdiction and Case Assignment

Cases within the jurisdiction of Magistrates will be as established by the Order of the majority of the District Judges. The allocation of caseload assignments by a division of cases among the Magistrates shall be as directed by the order of the Administrative District Judge. If approved by the Administrative District Judge, where there is more than one resident Magistrate, the method of allocating the caseload of that county between Magistrates may be by consensus among resident Magistrates.

All other cases shall be assigned to the District Judges, with the allocation of caseloads by a division of cases between the District Judges to be as directed by the Administrative District Judge.

Assignments upon disqualification of a judge shall be as directed by the Administrative District Judge.

RULE 2: Scheduling

Each District Judge shall control and set his own schedule for civil and criminal trials and for law and motion matters, subject to the authority of the Administrative District Judge pursuant to

§1-907.

Cases assigned to Judges of the Magistrate Division shall be scheduled pursuant to the Magistrate Assignment Schedule of the First Judicial District established by the Trial Court Administrator, as directed by the Administrative District Judge.

A rotation schedule within each county consistent with the Magistrate Assignment Schedule of the First Judicial District may be established by the resident Magistrate (if only one) or by a consensus of the resident Magistrates (if two or more), subject to the approval of the Administrative District Judge.

RULE 3: Calendaring

Judges of the District Court: Each District Judge shall establish and control the calendaring of cases to be heard at times set aside for civil, criminal and special proceedings and for Law and Motion matters.

Judges of the Magistrate Division: Each Judge of the Magistrate Division shall control the calendaring of cases to be heard at times set aside for civil, criminal and special proceedings pursuant to the Magistrate Assignment Schedule of the First Judicial District.

RULE 4: Minutes

Minutes of all proceedings in District Court shall consist of the log of electronic recording prepared by the deputy clerk operating the electronic recording device use to record the proceeding. The log shall be in the format prescribed by Idaho Court Administrative Rule 25(c) and shall additionally include the name of any court reporter who is reporting the proceedings. The complete log, which shall be in legible handwriting, shall be placed in the court file.

Minutes of all proceedings in the Magistrate Division of the District Court shall consist of the log of electronic recording prepared by the deputy clerk operating the electronic recording device used to record the proceeding. The log shall be in the format prescribed by Idaho Court Administrative Rule 25(c). The completed log, which shall be in legible handwriting, shall be placed in the court file.

RULE 5: Transcript of Electronically Recorded Proceedings in the Trial Court

APPEALS: Transcripts for appeals from the Magistrate Division to the District Court shall be prepared at the discretion of the District Judge assigned to the appeal in accordance with Idaho Civil Rule 83 and Idaho Criminal Rule 54. Appeals from the District Court shall be governed by I.A.R. 24.

OTHER THAN APPEAL PURPOSES -- Transcripts of proceedings for other than appeals purposes shall be prepared only on order of the Judge conducting the proceeding for which a transcript is being requested.

If an order of a transcript is entered, it will be necessary for the party securing such order to present to the Court, with the original, a copy of the Order for service on the transcriber and a check for the estimated fees for the transcript, unless fees have been waived by court order or the matter is a criminal or special proceedings case involving an indigent.

RULE 6: Notice of Trial Setting

When a case has been assigned a trial date, the Clerk will forthwith prepare a Notice of Trial Setting, and mail copies of the notice to the attorneys involved, or to the parties if not represented by counsel.

RULE 7: Prohibition Against Preparation of Complaints or Pleadings by Judges and/or Clerks

Except as otherwise provided by statute or Supreme Court Rule, judges and/or clerks shall not prepare a criminal, civil or special proceeding complaints or pleadings

RULE 8: Supplemental Order for Custody, etc.

Supplemental Order for Custody, etc.

Unless otherwise ordered by the Court, all divorce decrees or temporary orders filed involving child custody, child support or alimony will contain the following paragraph:

"It is Further Ordered, Adjudged and Decreed Appendix A, attached hereto, is by this reference made a part here of as if fully set forth herein."

Upon presentation of the Decree for signature, a copy of Appendix A will be attached to said Decree. The form of Appendix A is as follows:

RULE 9: Excuse From Jury Service

Except for emergency excuses considered by the District

Judge or a Magistrate, all requests from jury service or excuse from such services shall initially be referred to the Jury Commissioner for recommendation to the Court.

RULE 10: Appointment of Counsel in Criminal Cases

Unless a Public Defender has been appointment by the Board of County Commissioners, or when the Public Defender cannot act, the District Court, including the Magistrate Division, will appoint attorneys to represent needy persons in all cases required by law in such Court. The clerk shall keep a list of attorneys, in alphabetical order, who are residents within the County and such appointments shall be made from such list in rotation, except those that the Court may appoint an attorney out of regular order, or whose name does not appear on such list, if, in the Court's opinion, the circumstances warrant such action.

When a person contends that he is a "needy person" and requests appointment of counsel, the Court or Clerk thereof will require such a person to fill out in detail a Financial Statement and execute the same before the Clerk of this Court. Based upon such statement and further interrogation of such person, by or under the direction of the Court, the Court will then determine if the Defendant is entitled to counsel and if so, the Order Appointing Counsel will be executed by this Court.

If the Court appointed counsel is demanded by any person during the accusatory state of interrogation, or at any time prior to the filing of a criminal complaint and arraignment, under

circumstances were such counsel otherwise would be appointed, the Clerk of this Court may temporarily appoint counsel without such Financial Statement, to act until the Magistrate or District Judge is available to consider this question and the Financial Statement prepared.

Withdrawal of attorney's name: If any attorney does not wish to have his name appear on such list, application in writing, stating his reasons, may be made to the Court, when approval by a majority of the District Judges in this Judicial District, such name shall be deleted.

Compensation: Each month, while the case is pending, the attorney shall submit a written statement, under oath, listing separately the time spent in legal research, investigation, consultation with his client, or in open Court, an itemized statement of out-of-pocket expense, and any other information deemed necessary or helpful by the attorney, together with an original and copy of an Order in the following form:

(Title of the Court and Cause)

IT IS HEREBY ORDERED that in accordance with Idaho Code §19-860, the above named County shall pay to _____, a licensed attorney and practicing attorney of the State of Idaho, the sum of \$_____, forthwith, and for attorney fees and expenses in the above entitled action for his representation of the defendant, a needy person.

Dated this _____ day of _____, _____.

District /Magistrate Judge

Such Order and Affidavit shall be filed by the Clerk in the Court file, and the copy of such Order shall be attached to the voucher form, which shall be signed by such attorney where required, and processed for payment.

Disqualification of Public Defender: In any county in which a Public Defender has been appointed, and in the event such defender is disqualified to represent a needy person, counsel will be appointed and compensated in the same manner as heretofore set forth.

Evaluation of Evidence: in the event assigned counsel other than a Public Defender deem it necessary to employ an investigator, other professional specialists, or private facilities for the evaluation of evidence, as authorized by Idaho Code §19-861, for which service a charge will be made to the county, such attorney shall first make a written petition to the Court and secure an order from the Judge authorizing such additional help.

DATED this 29th day of July, 2004.

_____/s/_____
Charles W. Hosack, Administrative Judge

_____/s/_____
Fred M. Gibler, District Judge

_____/s/_____
John P. Luster, District Judge

_____/s/_____
John T. Mitchell, District Judge

_____/s/_____
Steve Verby, District Judge